

the many individuals who were asked whether they would prefer an authorization card over secret ballot, 89 percent of those polled overwhelmingly chose the secret ballot.

As you see from the numbers, employees who have a real free choice of confidentially deciding whether to become part of the union have freely been able to employ their given right for union representation if they choose. In the last few years, under the secret ballot election, a majority of workers have decided to join a union. If a majority of prospective union employees does not wish to join, then they have a right, by secret ballot, to decline.

If labor unions are continuously increasing their election win margin each fiscal year, why prefer to use a system that threatens the protective rights of the confidential vote for each employee? Why not leave the ultimate decision to the employees where support for the secret ballot continues to remain strong?

The answer to that question may be in the fact that while secret ballot elections recently produced a victory of 55 percent in 2005, it does not match the success of a 90-percent win rate that the card-check system produces.

Many small businesses back home in Missouri have come to me and expressed concern with this bill, from machinists to mechanics to food distributors, and many other small companies. They have all voiced their resistance, distrust, and strong opposition to this bill.

We must understand that over 93 percent of our Nation's businesses have fewer than 100 employees. This bill would place a heavy burden on the livelihood of these small businesses, since they are the least likely to have experience in labor negotiations or have experienced legal counsel to represent them. They have to work on a first-name basis with their employees. They know what their challenges are. They know who they are, and they are in the best position to be able to help their workers. But they don't want to have the threat of a nonsecret ballot imposing a union on them.

Passage of the bill will mean that unions could unfairly target considerably smaller businesses, more than before, given that the amount of resources necessary to organize a business would be significantly less. Prohibiting a secret ballot for the purposes of assisting organized labor with efforts to bolster membership is not the remedy needed to ensure every worker's right to a safe, confidential, union election, where their God-given rights to a secret ballot, which we hold dear in the United States, would be denied.

I urge my colleagues not to permit this bill to go forward.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

IMMIGRATION REFORM

Mr. SESSIONS. Madam President, I thank my able colleague from Missouri. He is one of our most valuable and able members in the Senate. I value his thoughts on that and share his thoughts, actually.

I want to move off of that and some of the comments that Senator DORGAN had about working Americans and what they are facing today.

I remember addressing this point last year in the debate on immigration. I think it was at night when not many people were on the floor. Senator KENNEDY was here. I raised the question of what was happening to wages of working Americans as a result of large-scale immigration, and quoted professors and experts who had demonstrated that where those areas—where immigration reached its highest levels, wages had gone down for workers; they hadn't gone up.

Now we are told that businesses cannot get workers, and we are told we are at full employment, but apparently something is awry if wages are not going up in many areas.

I want to mention to you what we have with regard to the immigration bill that is coming before us. We will have cloture vote on it in the morning. This is what I want to say to my colleagues. The legislation promises that it will bring legality to the system. They say we have an illegal system and we have got a comprehensive plan to fix it.

What does our own Congressional Budget Office say? They just did an analysis of it. The Congressional Budget Office looked at the legislation that is proposed. They made an opinion about how much it would cost the U.S. Treasury. It was about \$30 billion over the next 10 years; not for the cost of enforcement, just the cost of additional social and welfare benefits provided to those who are here illegally, who will be made legal.

They made that analysis, and they also made one more analysis that is so stunning and so remarkable that I remain baffled that my colleagues have not picked up on it. What the Congressional Budget Office, our own budget office—a budget office that answers to the House, answers to the Senate, answers to the majority leader, HARRY REID, answers to the Speaker, NANCY PELOSI—the Congressional Budget Office concluded that net illegal immigration, after the passage of this bill, would only be reduced 13 percent.

Now what kind of reform is that, I ask my colleagues? I submit to you this is not a reform. A fix that is supposed to bring legality to a system that only reduces illegality by 13 percent. Last year we arrested 1 million people entering our country illegally. These are huge numbers. I would have thought we would want to see an 80 or 90 percent reduction of illegality at our border. This is a bill that by our own evaluation does not bode well.

There is another factor that many of my colleagues probably do not know,

have never understood. My staff has worked very hard to account for the actual flow of legal immigration into the country. In the next 20 years, this country, if this bill is passed, will see a doubling of the legal permanent residents in America. That is the number of people who are given a green card. That is the next step to citizenship. Anybody with legal permanent residence can move on to citizenship. It will double the number of legal permanent residents, which is what we call green card holders.

So we are not going to have any reduction in illegality, and we are going to have a major increase—a doubling of legal immigration. I am worried about that. We have been talking here about this debate about card check and unions. What it is about is wages and fairness for American workers, is it not?

Mr. Tonelson testified at one of our hearings before the Senate Judiciary Committee. This was a hearing I requested and asked for. We were able to get him, and he testified about areas in construction, in meat packing, in restaurant work, where there was high level of immigration from 2000 to 2005. Wages went down. You bring into this country more wheat, the price of wheat will go down. You bring into our country more cotton, the price will go down. Bring in more iron ore, the price of iron ore will go down. You bring in more labor, the price of American labor will go down. That is a fact.

I support a legitimate guest worker program. I believe we do have certain needs in certain industries and situations such as Hurricane Katrina where the need was so dramatic on the gulf coast. I know there are needs for some guest workers, temporary workers. I am prepared to help write legislation which would meet that need. I believe in immigration into America in general. I am not asking that we slash the amount of legal immigration into the country. But I doubt most Americans, when they hear about the great group I affectionately call the "masters of the universe" who met in secret and wrote this bill, had any understanding that their promise of comprehensive reform of the illegal immigration system we have today—and that is a fair way to describe it—they had no idea this bill would only reduce illegal immigration by 13 percent. I don't believe they had any idea it would double the numbers who were coming in legally.

That brings me to my point. The longer this legislation has been out for review, the less the public has liked it. I can see why. If you remember, Senator REID first called the bill up. He actually called up the old bill that the House wouldn't even look at last year. He let it sit for about a week and then plopped down, on a Tuesday, an entirely new bill, over 700 legislative pages, and wanted us to vote on it by Friday of that week. Why? That is what they attempted to do. We pushed back and said: No, this is a big issue;

we can't vote on Friday; we are not going to vote this week. We fought that, and they backed off. We had a week's break and came back. We got back on the bill and proceeded with it and had some amendment votes and were moving along, and then Senator REID pulled the bill off the floor on a Thursday night. So we thought maybe that was the end of it.

But after working on it, they decided to bring it back up. It is going to be brought back tomorrow. The bill is filed. Cloture was filed. We now find ourselves prepared to vote tomorrow on whether to invoke cloture on the motion to proceed, go to this bill, and actually discuss it on the floor. We know there are probably 51 Senators who have committed to vote for final passage of the bill. I think they have made a mistake. Some probably didn't understand it fully. I am sure some are uneasy about that commitment. But more than 50, I am confident, are committed to voting for the legislation. Some really think anything is better than the current system. Maybe this is better, they say. They are prepared to vote for it. So by going to the bill, we are setting ourselves on a pathway that leads to final passage of legislation I believe is not worthy of the U.S. Senate.

More than that, I urge my colleagues to think about this. We have been told—and if I am mistaken, I ask the majority leader to tell me I am wrong—that an unprecedented procedure will be utilized to eliminate as much time of debate as possible and to completely control the amendment process to this legislation in a way that has never been done before in the history of the Senate. It has never been done this way. The majority leader is going to fill the tree. He is going to file a second-degree amendment. That amendment will be divisible into a number of different amendments so he can say which amendments will be voted on and which will not, and other amendments will not be allowed to be voted on. It is complete control of the process. They will say: We adopted some of your amendments, you complainers. We have some of your amendments in that group.

This process has been prepared with the care and precision of the Normandy invasion. This has been prepared meticulously for weeks, how they are going to move this bill through and how they are going to control the amendments. The amendments that will be allowed, I am confident, will be amendments they are confident they have the votes to defeat or amendments they don't care if passed. But they will not allow amendments to go to the core of this agreement by those masters of the universe who put it together, anything that would actually threaten this legislation's agreement they put together.

Some have been told: Don't worry, Senator, vote for cloture tomorrow, and we will let your amendment be

voted on. If your amendment is selected, it is likely that they have the votes to vote it down or the crowd that put this bill together doesn't object if it passes. But anything that really goes at this mechanism, this special agreement they have put together in secret without committee hearings of any kind, will not be allowed to be voted on. That is a big mistake.

I say to my colleagues on the other side of the aisle, I have been in the Senate 10 years, most of which Republicans had the majority. This procedure was never used against the Democrats when Republicans were in the majority. This is the first time it has been used in the Senate. What if it is used against Senators in the future on both sides of the aisle? The great free debate this Senate is so proud of would be eroded.

So for two reasons I urge my colleagues tomorrow to vote against cloture. First, we need to have this bill pulled down. We need to go back and review what it is that has caused the American people to reject it so overwhelmingly. We need to find out why the Congressional Budget Office has concluded that it will reduce illegal immigration by only 13 percent. My goodness. We need to ask ourselves, do we really want to double on top of that the legal immigration into America?

What are we afraid of? Why is there this obsession to move this flawed piece of legislation through, utilizing the unprecedented procedural gambit to do so? I ask why?

Three weeks before we had the final vote and Senator REID pulled it down, after the debate continued a couple of weeks ago, a Rasmussen poll showed support for the bill in the high 20s. Then fell to 23 percent, and the last poll showed only 20 percent of Americans supported this bill. Only 20 percent of the American people said we should pass this bill. A decent respect for the opinions of the people who elect us, I suggest—if nothing else, maybe for our own self-interest—would call on us to say: What is it that people are worried about? Why don't we pull this bill and see if we can't make a decent piece of legislation that we could be proud of and move it forward? What possible reason is there to be obsessed with just ramming it through this Senate? I am amazed. It takes my breath away. There is every kind of reason to suggest that we should pull the bill down and work on it.

I will conclude with these thoughts. Let's don't go forward tomorrow. Let Members of the Senate say to those who are promoting the legislation—one former law officer called them mandarins; I jokingly called them the masters of the universe—this legislation will not work. They are good people. They think they were doing good. But the product they produced won't work, and the American people don't like it. I say vote against cloture tomorrow because a vote for cloture is a vote ultimately to move this bill passage.

No. 2, I say vote against cloture tomorrow because unless the majority leader declares otherwise, we will have to assume that what we have been hearing is correct, and he will use an unprecedented procedure—a procedure dubbed “the clay pigeon”—to completely control the amendment process and to bring this bill up for final vote with amendments only he has approved in a minimal amount of time that can be expended on such legislation. Any legislation this big deserves time. Any legislation this big or with this many flaws deserves a lot of work.

I urge my colleagues, in light of these factors and others they may personally care about—and there are many more problems—to reject cloture tomorrow. It would be a clear message to the leadership that is trying to move this legislation that we are not going to have it. We want better legislation, if you want us to pass it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. Madam President, there is a widespread perception among the people of our country that things are getting worse, not better. Polls seem to indicate that people feel that life for the middle class in the last 10 years is not as good as it used to be. By very strong numbers, the people of our country believe the economy is getting worse, not better. We are the greatest country in the history of the world, but there is something wrong when, if current economic trends continue, the young people in our country will have a lower standard of living than their parents. We are moving in many respects in exactly the wrong direction, and it is our job as Members of the Senate to turn that around and to begin making government work for all people rather than just the wealthy and the powerful who have so much power over what goes on in this institution.

I rise in strong support of the Employer Free Choice Act. I commend Senator KENNEDY for his leadership on this issue.

Year after year, millions of American workers have been working longer hours for lower wages. In Vermont, it is not uncommon for people to work two jobs and on occasion work three jobs in order to cobble together an income in order to cobble together some health insurance.

Consider the facts: Since 2001, median household income has fallen by nearly \$1,300; wages and salaries now make up their lowest share of the economy in nearly six decades; the number of Americans who lack health insurance has grown by 6.8 million since 2001, to over 46 million Americans without any health insurance today; the number of Fortune 1,000 companies that have frozen or terminated their pension plans has more than tripled since 2001. Indeed, the middle class itself has shrunk. Over 5 million more Americans have slipped into poverty since the

year 2000. So what we are seeing is the average American worker working longer hours for lower wages.

Today there are millions of Americans who work who scarcely have any vacation time whatsoever. People are losing their health insurance, they are losing their pensions, and they are sitting around looking at the reality that if we do not turn this around, their kids will be even worse off than they are—all at the same time technology is exploding and worker productivity is increasing.

Meanwhile, while the middle class shrinks and poverty increases, corporate profits today make up their largest share of the economy since the 1960s. While the middle class is shrinking, millionaires and billionaires in this country have never had it so good since the late 1920s.

Today, the wealthiest 1 percent of Americans own more wealth than the bottom 90 percent. The CEOs of our largest corporations now earn 400 times as much as the average worker. This is not just an economic issue, this is a moral issue. Is this what America is supposed to be about, the wealthiest 1 percent owning more wealth than the bottom 90 percent, and the gap between the rich and the poor growing wider every day, as the middle class continues to shrink. I do not believe that is what America is supposed to be.

At the same time, workers are seeing a decline in real wages, are being forced to pay more for their health insurance, and are seeing their pensions slashed. The CEOs of large corporations are making out like bandits.

Just one simple example: Several years ago, the former CEO of ExxonMobil, Lee Raymond, received a \$400 million retirement package—while we are paying over \$3 for a gallon of gas, and ExxonMobil, last year, enjoyed the highest profits of any corporation in the history of the world.

But it is not just CEOs such as Mr. Raymond. At a time when big banks are ripping off American consumers by charging outrageous interest rates and sky-high fees, Richard Fairbank, the CEO of Capital One Financial, received over \$300 million in total compensation over the past 5 years.

While consumers have been getting ripped off at the gas pump, Ray Irani, the CEO of Occidental Petroleum, raked in over \$500 million in total compensation over the past 5 years. And on and on it goes, CEOs making out like bandits, workers paying \$3 for a gallon of gas, losing their health insurance, losing their pensions, losing their homes.

The middle class is shrinking, poverty is increasing, and millionaires and billionaires have never had it so good. It is our job to turn that around. There are a lot of reasons for the growing inequality in our economy, and economists may differ, but there is clearly agreement on some of the basic reasons the gap between the rich and the poor is growing wider and the middle class is shrinking.

The failure, up until very recently, to raise the minimum wage is an obvious example. Millions and millions and millions of workers today—before the new minimum wage goes into effect—are making \$5.15 an hour. Yes, the U.S. Congress has provided hundreds of billions of dollars in tax breaks for the wealthiest 1 percent, but we could not raise the minimum wage until a few weeks ago. That is certainly one of the reasons poverty in America is increasing.

Another reason is that unfettered free trade, which forces American workers to compete against desperate workers in China, Mexico, and Vietnam, is also responsible for an increase in poverty and a lower standard of living for millions of American workers. No, American workers should not be forced to compete against desperate workers in China who are making 30 cents an hour. That is not a level playing field. That is wrong, and that is another reason the middle class in this country is in decline.

But perhaps the most significant reason for the decline in the middle class is the rights of workers to join together and bargain for better wages, better benefits, and better working conditions have been severely undermined over the years.

Today, if an employee is engaged in a union organizing campaign, that employee has a one in five chance of getting fired.

Today, half of all employers threaten to close or relocate their business if workers choose to form a union.

Today, when workers become interested in forming unions, 92 percent of private sector employers force employees to attend closed-door meetings to hear antiunion propaganda; 80 percent require supervisors to attend training sessions on attacking unions; 78 percent require supervisors to deliver antiunion messages to workers they oversee; and 75 percent hire outside consultants to run antiunion campaigns.

In 2005 alone, over 30,000 workers were discriminated against, losing wages or even their jobs, for exercising their constitutional right of freedom of association—a right guaranteed under the Constitution of the United States.

Further, Human Rights Watch has said:

Freedom of association is a right under severe, often buckling pressure when workers in the United States try to exercise it.

The right to come together to form a union is a constitutional right. It is under severe, unprecedented attack today.

Even when workers—who are faced with all of these enormous obstacles—win union elections, more than one-third of the victories do not result in a first contract for workers.

Today, corporate executives are routinely negotiating obscenely high compensation packages for themselves, but then they deny their own employees their ability to come together to create

better wages and working conditions and better lives for themselves. That is wrong. This Senate has to stand up for those workers.

It is time to turn this around. It is time to stand up for the working people of this country. That is what the Employee Free Choice Act is all about.

The House of Representatives did the right thing when it passed the Employee Free Choice Act by a vote of 241 to 185 earlier this year. Now it is time for the Senate to act.

This legislation is very simple. The Employee Free Choice Act would simply allow workers to join unions when a majority sign valid authorization cards stating they want a union as their bargaining representative. As Senator KENNEDY has correctly pointed out, card check recognition was the law of the land in the United States from 1941 to 1966. In other words, all this legislation does is give workers the same rights they had 41 years ago.

More than half of the U.S. workforce—nearly 60 million workers—say they would join a union right now if they had the opportunity. Yet only 12 percent of the workforce has a union. This is much different from other industrialized countries around the world.

In Canada, where card check is the law of the land, twice as many workers belong to unions than in the United States. In Britain, where card check recognition is the law of the land, 60 percent of workers belong to unions.

What has strong union participation meant for workers in other countries? This is an important point to be made because it is terribly important we in the Senate see what is going on in the rest of the industrialized world, see and note the benefits workers around the world are receiving that our workers are not.

Just a few examples. In Finland, where two-thirds of workers belong to unions—guess what—unlike college graduates in the United States who are graduating \$20,000 in debt, Finland provides a free college education, including law and medical schools, to all qualified citizens. That is pretty good. They encourage young people to go to college and graduate school tuition free.

While the cost of childcare in the United States is skyrocketing—millions of American families cannot afford quality childcare—in Finland, day care is free to all citizens.

Unlike the United States, where the 2-week vacation is becoming a thing of the past, in Finland, workers are guaranteed 30 days of paid vacation and 60 days of paid sick leave.

In Norway, where the union participation rate is about 60 percent, women receive 42 weeks of maternal leave at full pay—full pay—while U.S. workers only receive 12 weeks of unpaid maternal leave.

In Belgium, France, and Sweden over 90 percent of workers belong to unions. Workers in those countries all have

much stronger pensions, health care, childcare, and vacation benefits than American workers.

In addition to the card check provision, the Employee Free Choice Act would also stiffen penalties against employers who illegally fire or discriminate against workers for their union activity during an organizing or first contract drive.

Perhaps most importantly, this legislation will make it easier for workers who win union elections to negotiate a first contract. We will end the situation where, when workers decide to form a union—they go to negotiate—the employer simply refuses to negotiate.

In order to strengthen America's middle class, we have to restore workers' rights to bargain for better wages, benefits, and working conditions.

After all, union workers in this country earn 30 percent more, on average, than nonunion workers who are performing the same jobs.

Madam President, 80 percent of union workers have employer-provided health insurance; only 49 percent of nonunion workers do.

Madam President, 68 percent of union workers have a guaranteed pension through a defined benefit plan; only 14 percent of nonunion workers do.

Madam President, 62 percent of union workers have short-term disability benefits; only 35 percent of nonunion workers do.

Union workers have, on average, 15 days of paid vacation; while nonunion workers, on average, have fewer than 11 days of paid vacation.

Again, I thank Senator KENNEDY for his leadership on this issue. We have to do everything we can from a moral perspective to reverse the decline of the middle class, to lower our poverty rates, to improve the standard of living of American workers, and passing the Employee Free Choice Act is an important step in that direction.

Madam President, thank you very much.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANDERS). Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 40 minutes remaining.

Mr. KENNEDY. Mr. President, I think we have had a very good discussion over the course of the afternoon and earlier. As I mentioned in my opening comments, a number of our colleagues spoke about this issue during the last week. So this is a matter of importance. It is a matter of economic justice and economic fairness. It is an extremely important issue, I

think, a defining issue in terms of what is happening to the middle class in this country. Are they going to have voices and votes that are going to be taken seriously? Are they going to be able to participate in a meaningful way in terms of our economy? This involves their families and their future, their own personal future, their economic future, the future of their retirement, the future of their health care, and the future of their ability to be able to educate their children. So it is a very important matter.

I have been listening to the debate and the discussion. It is an interesting fact that the bill itself is only three pages long. It is only three pages long. But the difference it would make for working families is enormously significant and incredibly important. So this legislation, although it is written in some technical language, is understandable and should be. Basically, what it does is it gives the worker the kinds of expression and the rights in the workplace which increasingly they have been denied.

I wish to go over very briefly exactly how this legislation works, because if you were someone back home listening to the discussion and the debate, I think you would wonder what this legislation is all about. I thought I would take a few moments to go through this. As I mentioned, a majority sign up in a workplace for employee free choice requires the employer to recognize the union if a majority of the employees sign valid authorization cards; if the employees want to have an election, then there can be an election. The idea that has been suggested around here is that this eliminates the opportunity for free elections and that, of course, is not so. But what it is saying is that the people who are going to be the most affected by it will be able to make the decision as to whether it is going to be an open election or whether it will be the card check-off.

Then we have the instructions by the NLRB to make clear and fair rules for how that sign up is to protect the workers' rights.

Then, this says, the Employee Free Choice Act brings the employers to the table within 10 days to start bargaining. The majority has indicated through the card check that they want to form a union and this is a process spelled out in this legislation about getting the employer to the table within 10 days and provides a reasonable timetable for negotiations and creates an incentive for both parties to reach an agreement and provides for mediation and binding arbitration as a last resort.

This idea we have heard during the course of the afternoon that this is going to require Government imposing a judgment and decision on companies is, of course, completely fallacious.

This is the timeline. Although it may be somewhat difficult to see, it is not enormously complicated. The union is certified, requests to bargain, it takes

10 days, and the bargaining begins. It goes on for 90 days. It can be extended. As long as there is a demonstration on both sides that they want to continue to move ahead, they will go ahead. If not, either party may request they go to mediation.

What we have found out, and history demonstrates, that 86 percent of the cases that go to mediation are actually settled. This is an extraordinary achievement and a record. So it gives full opportunity for the 90 days, continued opportunities for the sides, if they think they are making progress. If one or the other sides requests the mediation, they go to mediation. Then, only at the very end, if they are unable to get, through the mediation, if they are unable to resolve their questions in collective bargaining, then there is going to be 30 days after that which will be for the arbitration.

Now, a point that has been missed during this debate and discussion is that on the issue of arbitration, it is not in the interest of the union to put the employer out of business because they wouldn't have jobs, and it isn't in the interest of the employer to be so arbitrary that they will find they are not going to have a workforce. So there are forces that are out there to bring the situation together, and that is how it has worked in the past and is working.

The example that has been used, of course, is in our neighboring country of Canada, where it has met with great success. This is not enormously complicated, but the impact this will have in terms of permitting the 60-odd million individuals across this country who want to participate in a union to be a member of a union is dramatic.

I wish to reiterate for the membership what is happening in the real world. I explained earlier the kinds of activities employers have had to discourage, effectively to demean the workers themselves and destroy their economic life by firing them, even after there is a successful outcome in favor of a union. I wish to show what the numbers are. This is in 2005, when over 30,000 workers received backpay after the National Labor Relations Board found that employers had violated their rights—30,000 workers across the country. This isn't 5 or 6 workers, where it is happening in New England, or 4 or 5 workers down in Los Angeles or in another part of the country; this is 30,000 across the country. Thirty thousand across the country are receiving the backpay in one particular year. It demonstrates what is out there and the difficulty. That means they have been fired or their rights have been violated for being involved in union activity, to try to get an expression in their workplace, and they get fired or their rights are violated. What happens is they get fired or somehow their rights are violated, and it can be 2, 3, 4, or 5 years, luckily, if they ever get a reinstatement, so many of them become discouraged and completely drop out of the market.

Now let's see, after the National Labor Relations Board says they have been harshly and illegally treated, what is the burden then on the employer to pay them? Look at this. The average backpay of those 30,000 workers, many of whom are out 1, 2, 3, 4, or 5 years, is \$2,660. That is the backpay. That is the average backpay for those 30,000 workers. Talk about a slap on the wrist. It is not even a slap on the wrist. This is the cost of doing business. Compare this to the unauthorized reproduction of Smokey the Bear. The penalty is \$10,000 and up to 6 months in prison. This is the unfairness to American workers when they have been unfairly treated or fired, risking their family's future and their future, reinstated by the National Labor Relations Board and receiving the average pay of \$2,660. So you can understand very easily why these many unscrupulous—not all, and we have given examples of informed and enlightened employers—but we can understand why many employers say go ahead, give me those firms that you have a list of, and we will take these kinds of penalties any time, rather than going ahead with the union. That is what is out there, in terms of its impact, by failing to move ahead.

We illustrated earlier in the day when it wasn't this way—when we had strong unions, speaking for working families, increase in productivity, increase in wages, and the result was that America was growing together. America was growing together toward being the strongest economy with the strongest national security in the world. The opportunities for those families to continue their being a part of what I call the march for progress, being a part of an America that was offering better opportunities than these families had or that their parents had. That was the promise of America. That isn't where we are today. We have gone through that earlier in the afternoon.

Since there have been a number of references to the National Labor Relations Board, I wish to include a letter from an extraordinary former Secretary of Labor. His name is Ray Marshall. He was an extraordinary Secretary of Labor under President Carter. He now continues to be a professor at the Johnson School of Public Affairs. He wrote, on March 21—and I will include his letter in the RECORD. I wish to mention briefly the relevant and very important part of his letter pointing out numerous studies, including those by the Commission on the Future of Worker-Management Relations, the Dunlop Commission. The Dunlop Commission was led by John Dunlop, who taught at Harvard Business School, a Republican, a Secretary of Labor for a number of Republican Presidents, and generally perceived to be one of the most thoughtful Secretaries of Labor we have had, in fact, over the last 50 years, and there was a Dunlop Commission which he took great pride in, in reviewing labor-management relations. That is what Ray Marshall is referring to.

He pointed out the Dunlop Commission documented the failure of American labor law to adequately protect workers' rights, bargaining rights. The National Labor Relations Act's major weaknesses include: Giving employers too much power to frustrate workers' organizing efforts through unlawful means.

This is the Dunlop Commission, former Republican Secretary of Labor, included in a letter from Ray Marshall.

No. 1: Giving employers too much power to frustrate workers' organizing efforts, often through unlawful means.

No. 2: Weak penalty for illegal actions by company representatives.

We gave an example of both of those.

No. 3: Employers' refusal to bargain in good faith after workers vote to be represented by unions.

The letter goes on. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LYNDON B. JOHNSON SCHOOL OF PUBLIC AFFAIRS, THE UNIVERSITY OF TEXAS AT AUSTIN,

Austin, TX, March 21, 2007.

Hon. TED KENNEDY, Chair,

U.S. Senate Committee on Health, Education, Labor and Pensions, Washington, DC.

DEAR SENATOR KENNEDY: I regret very much that a scheduling conflict precludes the opportunity to accept your invitation to testify on the Employee Free Choice Act (EFCA), which I strongly support.

There is abundant evidence that free and democratic societies and broadly shared prosperity require strong and democratic organizations to represent employees at work and in the larger society. This is one reason all democratic countries, including the United States, have declared the right of workers to organize and bargain collectively to be fundamental human rights.

Unfortunately, despite our support of this declaration, U.S. labor law actually makes it very difficult for American workers to bargain collectively, even though polls show that nearly 60 million of them wish to do so. Indeed, unlike most other advanced democracies, the United States requires workers to engage in unfair high-stakes contests with their employers to gain bargaining rights. Numerous studies, including those by the Commission on the Future of Worker-Management Relations (the Dunlop Commission) have documented the failure of American labor law to adequately protect workers' bargaining rights. The National Labor Relations Act's (NLRA) major weaknesses include: giving employers too much power to frustrate workers' organizing efforts, often through unlawful means; weak penalties for illegal actions by company representatives; and employers' refusal to bargain in good faith after workers vote to be represented by unions.

By strengthening the right of workers to select bargaining representatives without going through lengthy and unfair election processes, facilitating first contracts, and creating stronger and more equitable penalties, the EFCA would cause the NLRA to be much more balanced.

The EFCA is important to all Americans, not just to workers. We are not likely to have either sound public policies or fair and effective work practices if millions of American workers' voices remain unheard. It is significant that stagnant and declining real

wages for most workers, along with growing and unsustainable income inequalities, have coincided with declining union strength.

Good luck with this important legislation. Please let me know if I can help in any way.

Sincerely,

RAY MARSHALL.

Mr. KENNEDY. Mr. President, I think these summarize the challenge and the problem and what we are trying to do to address them.

There have been comments about who will benefit—that it is going to be the union bosses who will coerce the people; the union representatives have no power over workers; the employer can fire you. He can hire you and fire you. He can decide whether you are going to have any kind of health insurance, or vacation, or paid sick leave. They are the ones who hold the whip, and we should not forget it. There is the claim that this is a payback for union leaders. It is the people who care about the workers who support this.

That brings me to this point. We have a letter from 124 religious leaders. I will read quickly part of this excellent letter:

As religious leaders, we will continue to work to disseminate within our communities of faith this message: That the right of workers to freely organize in a democracy, and families and communities are strengthened when workers can bargain for fair wages, adequate benefits, and safe working conditions.

We, as leaders of faith communities that represent the entire spectrum of U.S. religious life, call upon the U.S. Senate to bring the Employee Free Choice Act to the floor of the Senate as soon as possible. We urge that the Senate vote to pass this historic legislation as a public representation that this bill offers the best remedy to the egregious violations of workers' rights and best hope to restore to workers a voice in the workplace free from fear and harassment.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AN OPEN LETTER FROM RELIGIOUS LEADERS TO THE U.S. SENATE TO SUPPORT THE RIGHT OF WORKERS TO ORGANIZE

We, the undersigned religious leaders and representatives of faith-based organizations, are deeply concerned about the pervasive violation of the rights of working people when they attempt to exercise their basic freedom to form unions and bargain collectively for a better life.

Over the past 30 years, workers' living standards have declined in well-documented ways—stagnant or low pay, longer hours spent at work, unaffordable or no health care benefits, and increasing insecurity. Increasing income inequality is the hallmark of our time.

U.S. labor law protects the legal right of workers to form unions, yet employers regularly and effectively block that right. Employer violations of workers' rights are routine and illegal firings of union supporters in labor organizing drives are at epidemic levels. In 2005 National Labor Relations Board (NLRB) annual report 31,358 people—or one worker every 17 minutes—received back pay because of illegal employer discrimination for activities legally protected by the National Labor Relations Act. But the perpetrating corporations pay no effective price.

This routine and flagrant violation of workers' rights has created a climate of fear and intimidation in the workplace. The results are that too many workers do not try to exercise their freedom for fear of losing their jobs. They quietly suffer hazardous working conditions, falling wages, and declining benefits.

America's faith traditions are nearly unanimous in support of the right of workers to organize, and by using sacred text and tradition, our faith communities have developed social statements supporting the freedom of workers, too vulnerable to systemic injustices in the workplace, to organize and collectively bargain.

The Employee Free Choice Act is the first step to fixing this badly broken system by strengthening penalties for companies that break the law by coercing or intimidating employees. It will also establish a third-party mediation process when employers and employees cannot agree on a first contract, and enable employees to form unions when a majority expresses their decision to join the union by signing authorization card. It makes real the principle that the free choice about whether to form unions should belong to workers.

As religious leaders, we will continue to work to disseminate within our communities of faith this message: That the right of workers to freely organize their workplaces is required in a democracy, and families and communities are strengthened when workers can bargain for fair wages, adequate benefits, and safe working conditions.

We, as leaders of faith communities that represent the entire spectrum of U.S. religious life, call upon the U.S. Senate to bring the Employee Free Choice Act to the floor of the Senate as soon as possible. We urge that the Senate vote to pass this historic legislation as a public representation that this bill offers the best remedy to the egregious violations of workers' rights and the best hope to restore to workers a voice in the workplace free from fear and harassment.

Sincerely, (Signed by 124 leaders)

Mr. KENNEDY. That isn't just the Senator from Massachusetts, the Senator from Vermont, or others who have spoken in favor of this. This is an open letter from 124 religious leaders, representing all of the great faiths, who are urging us as a matter of social consciousness and morality to give a voice and expression in the form of support for that legislation.

I also include a letter from 16 Governors from around the country. In part, they say:

The freedom to form and join unions is a fundamental human right protected by our constitutional freedom of association, our Nation's labor laws, and international human rights laws . . . it is a right for which millions of Americans have struggled. The freedom to form unions is of special importance to the civil and women's rights movements because unions help ensure adequate wages, health care coverage, and retirement security. It was the right to form a union that Dr. Martin Luther King, Jr. was supporting during the Memphis sanitation strike when he was assassinated in 1968. Unions also helped to reduce the wage gap for women, people of color, and can prevent arbitrary and discriminatory employer behavior.

So 16 Governors are recommending that we move ahead with this legislation.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

June 21, 2007.

Hon. HARRY REID,
Senate Majority Leader, U.S. Capitol Building,
Washington, DC.

Hon. MITCH MCCONNELL,
Senate Minority Leader, U.S. Capitol Building,
Washington, DC.

DEAR MAJORITY LEADER REID AND MINORITY LEADER MCCONNELL: As governors, we ask for your support of the "Employee Free Choice Act," introduced by U.S. Senator Edward Kennedy and U.S. Representative George Miller. This legislation provides for recognition of a union when the majority of employees voluntarily sign authorizations, offers mediation and binding arbitration to resolve first contracts, and strengthens penalties for violations during organizing and first contract efforts.

The freedom to form and join unions is a fundamental human right protected by our constitutional freedom of association, our nation's labor laws, and international human rights laws, including the 1948 Universal Declaration of Human Rights. It is a right for which millions of Americans have struggled. The freedom to form unions is of special importance to the civil and women's rights movements because unions help ensure adequate wages, health care coverage and retirement security. It was the right to form a union that Dr. Martin Luther King, Jr. was supporting during the Memphis sanitation strike when he was assassinated in 1968. Unions also help to reduce the wage gap for women and people of color, and can prevent arbitrary and discriminatory employer behavior.

The National Labor Relations Act of 1935 has long allowed employers to recognize a union when the majority of workers sign authorization cards, designating the union as their bargaining agent. The right to form a union, however, has been eroded over the last several years, resulting in increasing employer harassment, discrimination, and sometimes termination for workers taking initial steps toward forming a union. Twenty-five percent of private-sector employers illegally fire at least one worker for union activity during organizing campaigns. Even where workers successfully form unions, employers often refuse to bargain fairly with the workers. Moreover, 92% of employers illegally force employees to attend mandatory, closed-door meetings against the union. The Employee Free Choice Act will protect workers from these abuses, provide for first contract mediation and arbitration, and establish meaningful penalties when employers violate workers' rights.

When workers try to form unions, all too often they are harassed, intimidated, and even fired for their support of the union. These attacks on workers' rights, for which there are only weak—if any—remedies, occur all too frequently among the most vulnerable workers of our society, including women, the working poor or all races, and recent immigrants. As a result, those workers who need unions the most are often those who have the least chance of achieving the benefits of unionization.

We strongly urge you to support the Employee Free Choice, legislation that would begin to reinstate the right to form unions that Congress protected for America's workers over 65 years ago.

Sincerely,

Governor Bill Ritter, Jr., Colorado; Governor Chet Culver, Iowa; Governor John Baldacci, Maine; Governor Jennifer Granholm, Michigan; Governor Bill Richardson, New Mexico; Governor

Ted Strickland, Ohio; Governor Edward G. Rendell, Pennsylvania; Governor Joe Manchin III, West Virginia; Governor Rod Blagojevich, Illinois; Governor Kathleen Sebelius, Kansas; Governor Martin O'Malley, Maryland; Governor Jon Corzine, New Jersey; Governor Eliot Spitzer, New York; Governor Ted Kulongoski, Oregon; Governor Chris Gregoire, Washington; Governor Jim Doyle, Wisconsin.

Mr. KENNEDY. Finally, we have a letter from the Leadership Conference on Civil Rights. Two hundred civil rights groups are endorsing this legislation.

In part, their letter says this:

This bill will reform the current system for selecting a union to give all working people the freedom to make their own decision about whether to choose a union and bargain for better wages and benefits. LCCR strongly believes that a healthy labor movement invests America's diverse working people with a powerful voice with which to challenge workplace discrimination and demand equality.

I ask unanimous consent that this letter also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LEADERSHIP CONFERENCE ON CIVIL RIGHTS

Washington, DC, June 18, 2007.

DEAR SENATOR: On behalf of the Leadership Conference on Civil Rights (LCCR), the nation's oldest, largest, and most diverse civil and human rights coalition, with nearly 200 member organizations, we urge you to support the Employee Free Choice Act (EFCA) (S.1041). [The bill will reform the current system for selecting a union to give all working people the freedom to make their own decision about whether to choose a union and bargain for better wages and benefits. LCCR strongly believes that a healthy labor movement invests America's diverse working people with a powerful voice with which to challenge workplace discrimination and demand equality.]

Under the current system, where the National Labor Relations Board (NLRB) conducts polling after a long and bitter campaign period, employers are given ample opportunity to intimidate and coerce employees to vote against unions. Until workers can exercise a free choice, they will continue to lose power in our country, living standards will continue to suffer, and our middle class will continue to decline. LCCR urges the Senate to vote yes on cloture for the EFCA, and to promptly join the House in passing the bill.

The EFCA levels the playing field for employees by: (1) certifying union representation when a majority of workers sign cards designating the union as their bargaining representative; (2) strengthening penalties against companies that illegally punish employees for supporting a union; and (3) bringing in a neutral third party to settle a contract when a company and a newly certified union cannot agree on a contract after three months.

A recent analysis of NLRB data reveals the necessity of reform. One in five active union supporters is illegally fired for union activity during NLRB election campaigns; workers are fired for union activity in 25 percent of campaigns; in 78 percent of NLRB campaigns, employers require supervisors to deliver anti-union messages to the workers whose jobs and pay they control; in 92 percent of NLRB campaigns, employers force

workers to attend closed door anti-union meetings; and in 51 percent of NLRB campaigns, employers threaten to close the workplace if employees vote for union representation.

LCCR and the civil rights community care deeply about this bill. The labor movement has long been a forceful advocate for equal opportunity and equal dignity in our nation. The critical role played by labor in achieving passage of Title VII of the Civil Rights Act is well-known. But unions also facilitate enforcement of civil rights laws by policing the workplace and using the grievance process to halt discriminatory practices. Moreover, unions raise the wages and benefits of women and people of color. Workers who belong to unions earn 30 percent more than non-union workers, and enjoy substantially better health care. These improvements are even more pronounced for women and people of color.

Labor unions today are in crisis. Union membership in the private sector continues its precipitous decline of the past several years. Fierce, concerted resistance to unions by employers and the weakening of existing labor protections have made union organizing extraordinarily difficult. Surveys demonstrate that American workers want unions. Yet the campaigns of intimidation and coercion mounted by employers during organizing drives and the lack of an adequate legal remedy for such employer conduct have reduced existing polling procedures to a farce. The EFCA presents an important opportunity to guarantee workers a free, uncoerced choice in choosing union representation.

The Senate should seize this opportunity and vote for the EFCA. Should you require further information or have any questions, please contact Paul Edenfield, Counsel and Policy Analyst, at 202/263-2852, regarding this or any issue.

Sincerely,

WADE HENDERSON,
President & CEO.
NANCY ZIRKIN,
Deputy Director.

Mr. KENNEDY. So there it is. The outstanding religious leaders, the Governors, those who have been speaking out to protect and advance the cause of women and minorities in the workplace, all see this legislation as being a major consequence to economic justice to workers' rights in this country. That is why we are in such strong support of this legislation. We are hopeful we will get a strong vote on tomorrow. I reserve the remainder of my time.

Ms. MIKULSKI. Mr. President, as a U.S. Senator, I am fighting for jobs today and jobs tomorrow. Unions play a vital role in ensuring safe and fair working conditions. That is why I support the right to form and join unions and I will continue to fight to preserve the rights of workers.

It is time to get behind the working people's agenda. That is why I am proud to stand with the labor movement. I wear the union label on my clothes, on my heart, and on the floor of the Senate. I am proud of union members. You all work hard. You work three shifts: one at your jobs to make a living, then with your family to make that living worthwhile, and a third with your union to make a difference.

I know the importance of unions, and that is why I am an original cosponsor

of the Employee Free Choice Act. With union membership at its lowest point in more than 60 years, this bill takes several steps to make it easier to unionize without employer coercion. Workers understand the benefits of joining a union—53 percent say they could join one today if they could. But the right to organize is deliberately denied by many employers.

Unions raise wages, improve working conditions, and ensure fair treatment on the job. In many jobs they make the difference between living in poverty and making ends meet or the difference between just getting by and making enough to make a better life for a family.

Workers face three obstacles when trying to unionize: unfair union election rules, meaningless penalties, and employers' refusal to bargain with employees. This bill would level the playing field by letting workers choose how to form a union, establishing meaningful penalties, and guaranteeing both sides bargain in good faith.

Workers organize themselves by signing a document saying they want to join a union. Once a majority of workers sign up, they can ask their employers to be recognized as a union and collectively bargain for a contract. However, employers often refuse to recognize the union and require workers to go through an intimidating anti-union campaign that ends in an unfair election.

The Employee Free Choice Act makes it easier to form a union by not allowing employers to veto employees' decisions about how to organize and force an unfair election. Workers could still request an election, but it would be their choice—not the employers.

The other big problem for workers who want to unionize is that the penalties for companies that break the laws are too low. Employers who break union election rules only have to post a sign saying that they won't do it again. Employers who fire a worker for being pro-union are only required to pay wages they would have owed if they had followed the law minus whatever the fired employee earned since his or her firing. And because cases can be tied up in court for years, employers are able to fight dirty against unions and workers with near impunity.

The Employee Free Choice Act raises penalties for unfair labor violations to \$20,000, requires employers to pay workers who were unfairly fired three times backpay, and requires the NLRB to seek an injunction when they have evidence that an employer has violated a union election law.

Even when unions are able to overcome these slanted rules, employers still undermine the will of their employees by refusing to negotiate in good faith. Today, if a union and an employer can't agree on a contract within a year, the employer can call an election to disband the union and another unfair antiunion campaign begins. While not bargaining in good

faith is prohibited by law, the NLRB has set the standard of proof too high to ever be met except in the most blatant cases. This gives antiunion employers every reason to stall during negotiations, and that is why one-third of unions formed through elections don't get a contract within a year.

This bill ensures fair negotiations by establishing reasonable time tables for negotiation and mediation. In the rare cases when that fails to produce an agreement, this would also require arbitration so that parties have incentives to compromise and find a middle ground that benefits everyone.

Unfair rules, lax enforcement, and insincere negotiating has crippled union organizing and threatened the middle-class lifestyle that was once the economic pride of our country. The Employee Free Choice Act gives workers the rights they deserve, restores integrity to our Nation's labor laws, and lays the foundation for working and middle class Americans to once again share in our country's economic prosperity.

America's economy continues to grow but working class economic security and opportunity have gone in the opposite direction. Wages are lower today than they were 30 years ago, employers no longer offer good benefits, and workers don't make enough to save for retirement or send their kids to college. Despite working longer and being more productive, American families find it harder to break into the middle class and families in the middle class are finding it harder to stay there. This bill is a step in the right direction for working Americans. I strongly urge my colleagues to join me in supporting it.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. BURR. Mr. President, I have the deepest respect for the Senator from Massachusetts, and this is one Senator who makes no accusations that this is payback. I proudly say the Senator from Massachusetts believed before that this is the right thing, he believes it today, and he will believe it tomorrow; and no one could convince me he could change his mind. It is refreshing in this institution to find somebody who is so entrenched that the press, public opinion, or anything cannot move him.

But acknowledging that about Senator KENNEDY, I have to express my strong disagreement from the standpoint that he says this is easy to do. I hope it is not easy to do. I hope it is not easy in America, in a democracy, to do away with the private ballot. I believe it is something we cherish, something we protect, something we understand is part of the tenets of democracy.

I think it is important that we look back. We have heard a lot about where we are. But how did we get to the point that we have a system where if 30 percent of the employees sign a sheet to have an election—30 percent, not 50 percent—in fact, they get that right. It

was in 1947 when they changed the National Labor Relations Act. Why did they change it? Because through the 1930s and 1940s, there was widespread intimidation by the labor unions on workers and on employers. Rather than to have that intimidation that mobilized one's commitment to unionize a business, they rewrote the law and they provided the right of a private ballot in this infant democracy—what we did for elections we adopted for employees, a secret way for every employee not to be bullied or intimidated as to how they wanted to be represented by their employer or by a union.

Employee Free Choice Act. That sounds easy, and I think that is why he suggested it is. The reality is Americans will give up the private ballot. But the Employee Free Choice Act violates that tenet of our democracy because it would prevent every worker's vote from counting. I will say that again. It would prevent every worker's vote from counting. We have had battles over the last 10 years in this country about every vote counting. Not only would it prevent every vote from being counted, it would deny the right to vote to some employees, because now just with 50 percent plus one additional worker there would be no need for a vote. He is right. You would enter into a 10-day process that would accelerate, in all likelihood, to mediation because you have a union that shot for the stars and an employer that can only pay X. The history of the country is that we split the difference and the employer decides if they can even stay in business.

Under current law, the most frequent form of union organizing is a private ballot, with 30 percent of the employees signing their name on a dotted line, which initiates an election process where employees will decide by private ballot as to whether the union represents them. I cannot think of anything more fair than 30 percent initiating and 50 plus 1 making the final decision. In Winston-Salem in the past year and a half, I had a good friend whose company was forced to have a ballot—or at least they pushed it as far as they could. You see, at the end of the day, I am not sure they had 30 percent of the employees sign. But if you had seen what happened in that community, if you had seen the posters that were put on telephone poles about the owner of this business, the fliers mailed to his neighbors—it had nothing to do with his business or employees. It was a character assassination on the individual who owned the business because the labor unions thought if they could break his character, he would give in to a vote and they would have a chance of organizing his business.

The great news out of that story is he didn't break; he fought them and he won. In fact, they didn't have 30 percent who signed. They didn't have an election because the employees decided they didn't want to be represented by

the union. I can tell you that in the town I live in, they make pretty good money. They may not make as much as they would like to, but they make as much as the industry they represent can bear and that the town they live in can afford to pay.

When we talk about intimidation, I assure you that there is intimidation against the employer. It is happening every day in communities across this country. If there are any examples of what I saw as to what would happen if we did away with the private ballot, I would hate to see what would happen to employees in this country if unions had the ability to bully and intimidate them into agreeing to sign on because there was no longer the secrecy of a private ballot.

In the last 10 years, we have seen increased effort by unions to seek union recognition outside of the secret ballot process already—the so-called use of card check. It has become a critical component of big labor's organizing strategy. Card check circumvents workers' rights to private ballot to union certification elections. The legislation would instead force workers into a union once union organizers have obtained those 50 percent plus 1 signature.

This invites worker intimidation and character assassination by the union. I believe all votes should be counted. Under card check, that would not happen. Many individuals will be denied access to vote. Many votes will go uncounted because no votes would take place.

Do you find it odd that in 2001, the authors of this bill demanded private ballots in Mexico? As recently as 2001, the cosponsors of card check legislation urged Mexico to guarantee secret ballots to their workers voting in union-recognized campaigns. So they will propose private ballots in Mexico, but they won't support their continued existence in the United States. Unions know private ballots prevent coercion when it comes to making a choice about unions. Even the AFL-CIO has called the secret ballot the surest means for avoiding decisions that are the result of group pressure and not individual decisions. That statement was made in a legal brief regarding union decertification elections.

The Employee Free Choice Act is, quite frankly, antiworker legislation. Unions should not be enhancing their power by weakening workers' rights. I cannot think of a more important right than the right to vote, the right to a secret ballot, the right to make sure that your vote is cast, that it is counted, and that it counts. The authors of this bill suggest that we throw that away.

I will end with this story. We all had the opportunity—"all" meaning the entire world—to see the first free elections in Iraq in a number of decades. We saw people with purple fingers acknowledging the fact that they had risked their lives to travel to a polling

place to cast a private ballot for a slate of candidates to elect their representatives.

In my office today is a ballot from one of those polling places in Iraq. It is framed next to a flag that a pilot, who patrolled over that polling site protecting those Iraqi people, brought back and was told by the Iraqis: Give this to a Member of the U.S. Senate who represents you and tell them how much it means to us.

If this is, in fact, how we see democracies emerge and the importance of an individual's right to vote, to elect their representatives, to decide their future, and yet we, the strongest democracy in the world, throw out private ballots, disregard this important piece of democracy because it is easy, if we neglect history and we forget what happened in 1930 and 1940 and why we changed it in 1947, and we fall prey to what seems easy, then what example do we set for the rest of the world? How hard will people fight in the future for democracy and freedom? Will people be willing to risk their lives when they see the ability to weigh in on who represents them? I seriously doubt it.

I think the worst example we can send to the world is that there is a piece of American democracy where private ballots are no longer needed, where we just disregard that part of the rights of the American people.

I am hopeful that tomorrow we will vote not to proceed, that this legislation will not be considered, and we can assure the American people we have protected their rights with the private ballots and not accept what is easy, and that is to throw it away.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I rise today to also voice my opposition to the Employee Free Choice Act. It is a House bill which has been sent over to the Senate, H.R. 800. It is commonly referred to as the card check legislation. I am not concerned about the rights or about unions. I am not particularly concerned how the members of a union or how employees decide they want to organize. I am not concerned about corporations or businesses or how those businesses may decide they want to organize themselves. But what I am concerned about is the individual, and I am concerned about whether this is the best way to move forward in a democratic process where the individual is so very important. If we talk about a democratic process, we simply talk about free elections, which assures us the privacy of the ballot box.

My home State of Colorado continues to maintain a low unemployment rate, far below the national average. According to the Bureau of Labor Statistics, only 3.5 percent of Coloradans are currently unemployed. This is significant when compared to the national average of 4.5 percent. This is something about which Colorado should be proud to

boast. This is the type of information businesses review when they mull over starting up or expanding in the great State of Colorado. This low unemployment rate is the result of Colorado's strong economy and highly productive workforce.

So when we consider the so-called and wildly misnamed Employee Free Choice Act, I know it threatens to turn the clock back on progress we have made. In fact, this is an issue which Colorado has already rejected. This year, our newly elected Democratic Governor vetoed an attempt to enact a similar measure into State law. That vetoed bill would have repealed the Colorado law requiring that once a company's employees approve a union, they have a second secret ballot vote on how dues will be assessed with a 75-percent supermajority required for approval.

Governor Ritter's vote put a stop to the rushed efforts by Democrats in the State legislature who tried to ram the bill through, not unlike those here today. Governor Ritter's efforts protected the 92 percent of Colorado workers who are not members of unions.

Union leaders responded to Governor Ritter's actions with threats to move the Democratic convention from Denver if they don't get their way. If unions are able to make such threats on State governments and State legislatures and State Governors, I question what keeps them from intimidating workers who choose not to join their labor organizations.

Similar rushed efforts are being made at the Federal level, hiding under the deceptive name of the Employee Free Choice Act. It is advertised as an effort to restore economic opportunity for working families. In fact, this legislation threatens the fundamental right of workers to hold democratic elections in the workplace. Private ballot elections would be replaced with publicly signed card check elections. This would invite coercion from both employers and union activists.

Secret ballots guarantee the confidentiality of an employee's wishes without fear of exploitation, ostracism, or retribution. Common sense tells us that if corporate intimidation was a problem, private elections would do more to protect the true wishes of the employee.

History recognizes this democratic system as suitable for electing America's leaders, including every Member of Congress who serves today. Workers deserve the same rights at work as they do when they cast their ballot on election day. Only private ballot elections ensure democracy in the workplace. Ask yourself: Do publicly signed cards reliably reveal a worker's true intentions? Workers should be able to express their true desire about joining a union without pressure or fear of reprisal. Just as undue employer pressure is unacceptable on an employee, so is union pressure.

We speak of big business, but most union elections over the past several

years involve employers with less than 30 eligible employees. Compare that to the massive organization labor has built to advance its agenda.

What we are really talking about is big labor versus small business. Secret ballot elections, in my view, must be preserved, not eliminated. So I am asking my colleagues to join me and others in opposing the Employee Free Choice Act because, in my view, it is not about unions. It is not about corporations or big business. This is about the democratic process. It is about free elections and the privacy of the ballot box.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DEMINT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEMINT. Mr. President, I would like to speak for a few minutes about a couple of bills that are going to be offered this week. There are two bills that probably make a good point about where we are as a Senate, and particularly I think where my Democratic colleagues are. We have one bill that takes away almost a sacred right of American workers, and then we have a second bill that will be offered tomorrow that gives new rights and benefits to non-Americans who came to this country illegally.

The first bill has been given lots of names today. I think it is S. 1041. Some call it card check. I call it the "Worker Intimidation Act." One of the most central parts of our whole free society, whether you are talking about local school board elections, elections to Congress, or where workers decide whether to become part of a union, has always been the secret ballot. The very fact that this Congress is considering eliminating that secret ballot should give all of us pause as to where we are as a country.

The very thought that we would call this in some way worker protection is amazing, and that we are saying this bill will somehow help unemployment in this country, when we know it would not. Unions have been declining for years in the private sector because, in an age of lean manufacturing, continuous quality improvement, and just-in-time inventories, it is becoming increasingly impossible to have a third-party decisionmaker involved in that whole process.

I spent years consulting for continuous quality improvement, and it is hard enough, with your customers and workers and your company, to figure out how to make that dynamic work profitably. But when a third party is involved with collective bargaining in decisions about how your operations work it is almost impossible to make a company competitive in this global economy.

We have seen in our own country the companies and industries we are proudest of—our auto industries, and we have seen it in the airlines where, basically, unionization and the union contracts have brought these companies either to bankruptcy or close to it.

There is a reason that unions are not prospering in the private sector. The only place they are prospering is in government. As the government grows, it doesn't have any competition. The inefficiencies are very well known, the incompetencies. Third-party decision-making does nothing but make us more and more inefficient and inept as a government, which we see in everything from Katrina to almost everything we do.

As we look at this other bill that we are going to bring up, where we add 128,000 new border agents who will be unionized and part of collective bargaining, we will continue to see dysfunction at the border. We are not helping workers when we take away their right to vote as to whether to become a union. We have heard a lot of explanations of what this bill does, but it is really a desperate attempt to try to salvage unionization and union bosses in this country. It is just not right to tell a worker they can be intimidated to join a union, and that is basically what it comes down to.

So I am here to encourage all my colleagues to vote this bill down tomorrow. I am very surprised the majority leader is even willing to bring it up.

That brings me to the second bill where, on one hand, we are willing to take rights away from American workers—and I think America is increasingly concerned as it sees our laws and justice system seeming to work against them. It seems to work for the criminals rather than the victims. It tends to take rights away from Americans and give them away and send our money overseas. I hear that from everyone I talk to. But one of the most emotionally charged issues of our day is this immigration bill, which many call the amnesty bill, that will also be brought up.

We all know there are millions of people all over the world who have been waiting years to come to this country and work legally, to be a part of this country and to share our values. At the same time, we also know for many years, millions and millions of folks have snuck in illegally and continue to be here to this day, and the bill we are talking about this week is going to reward those who came here illegally while basically putting at a disadvantage those who have been trying to work the system legally for years.

All of us in Congress have tried to help people for many years, whether it is to get their passports or green cards, to try to get their citizenship, or to help people who want to get visas to come here because industry needs them to come, and it is difficult working within this legal system. We make it so

hard for people to come here legally, and we have made it easy for them to come here illegally.

We have talked about—during the debate today and we will a little more tomorrow—how back in 1986 we saw we had a problem with 2 or 3 million illegals who were here, and we passed a bill that was going to secure our borders and get a verifiable worker ID system, and we were going to grant amnesty to those who were here but then no more. We were just going to do it that once. But what we did was send a signal all over the world that if you can get here illegally, we are eventually going to make you legal. And so here we are again, except this time with 12 to 20 million illegals who have come to this country, breaking our laws as their first act of coming across our border.

This bill—and I know there are a lot of good intentions behind it—is holding hostage the reforms we need to secure our borders, to develop a workable immigration system. We are holding that part hostage, which we really need, to this whole idea of amnesty. They are telling those of us who want to make a system that works to get in the guest workers our farmers and hotel operators need, to get in the skilled workers in our high-tech industries, that in order to do that and to develop an enforcement system to make that work, we have to give 12 million people who came here illegally permanent residency and a pathway to citizenship.

I don't buy that grand bargain, and I don't think America has either. In fact, I know America hasn't. Our offices have had thousands of calls from all over the country from people who are desperate and wondering why we are not willing to enforce our laws. And what would make them think we are going to enforce this new law if we have not even shown an inclination to enforce the laws that have already been passed—not just in 1986 but last year we passed a stronger border enforcement bill than is in this current amnesty bill. Yet we have done very little to move ahead with it. We are holding it hostage to this brandnew amnesty program.

It is not fair to Americans because the American worker will have to pay for this in their taxes. We know these illegals who are here are going to continue to use government services: health care, and emergency rooms, free education for children, day care, free lunch programs, housing programs, and eventually Social Security and Medicare. We don't even know how we are going to keep these promises to our own citizens. Yet we are being asked to give permanent legal residency and a path to citizenship to those who came here illegally.

Tomorrow, we are going to bring up two bills. One is to take away a right of American workers to a secret ballot when it comes to whether they are unionized. The second is to give new benefits and rights to millions of peo-

ple who disobeyed our laws, who came to this country illegally, and who jumped in front of those trying to obey our laws. Both bills should be voted down.

I encourage my colleagues to respond to the American people on this one, to show them we can listen, that we are not as callous as we appear. Their concerns go far beyond just this immigration bill or this secret ballot bill. They believe they are being sold out. They think they are being betrayed. They think we are just moving from whim to whim in the Senate, and we are refusing to go by the rule of law and enforce the laws we have actually passed in Congress. They are concerned at a level and alienated at a level I have never seen.

At a time when the trust and favorable ratings of Congress and the President are at historical lows, we have chosen to stick down the throats of the American people legislation they do not trust and they do not want.

I appeal to the President, I appeal to the leaders on the Democratic side and the Republican side to take this a step at a time and allow us to earn the trust of the American people, to show them that we will enforce our laws and secure our borders, to show them we will follow through on a worker ID program that is verifiable so we will know who is legal and who is not. And if we develop a legal immigration system that works, then the decisions about what to do with the illegals who are here will become easy because we will have a workable system we can work with.

To vote for the bill, the motion to proceed tomorrow on this immigration bill, is a vote to pass it. Every Senator here knows, regardless of how this bill ends up, that there are 51 Senators who will vote for it. So moving this bill along tomorrow by voting for this cloture motion to proceed is voting to pass this bill.

I have heard some say: I am going to vote for the motion to proceed, but I will vote against the bill. America will see through it because they are looking at this one. We did the same thing last week on the Energy bill, where some folks said: Well, I am going to vote for the cloture motion, but I am going to vote against the bill, when they knew if they helped pass cloture they were passing the bill. The same is happening with this immigration bill. There are some who think the American people will not notice they pushed this bill all the way to final vote. Even if they vote against the final bill, they voted to pass it.

Tomorrow will reveal who wants to listen, who is going to listen to the American people, by voting against this cloture motion to proceed. This bill has come up and been voted down three times already in the last month. It is unprecedented in Congress after a failure of that magnitude to bring a bill back in a couple of weeks and try to stuff it down the American people's throats again.

This is the wrong bill. It is a flawed bill. It is the wrong time to ask the American people to trust Congress when we have not proven to be trustworthy in the past. We need to take this a step at a time, and we need to stop this cloture motion tomorrow. I encourage my colleagues to listen to the American people, to vote against the elimination of a secret ballot for unions, and to vote against the amnesty bill that will follow it tomorrow.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMMIGRATION

Mr. SESSIONS. Mr. President, I want to share some thoughts about immigration and the situation in which we currently find ourselves and offer a bit perspective, I think fairly, on where we are.

We are the world's most free nation and are having one of the strongest periods of economic growth—maybe our strongest ever. Billions of people all over the world, however, are in poverty and live in countries that are corrupt and backward. One expert has said that all would live a better life if they came to the United States. I think that is a true fact.

We are indeed a nation of immigrants, and that heritage has caused us to continue one of the most generous legal immigration systems of any nation in the world. I submit, however, that immigration policy is an issue of national sovereignty, as Canada, Mexico, Spain, Japan, England—all nations understand and respect. This is an acknowledged fact. I chaired the Mexican-American Senate Interparliamentary Group for 2 years. We talked about those things. Everybody understands setting immigration policy is your nation's prerogative.

It is amazing to me that our majority leader—in this case, our Democratic leader—will use the power of first recognition to call up an immigration bill again, just two weeks after the American people have basically rejected it. In fact, the polling numbers show that support for the Senate bill is dropping further and further. He then will use, I understand, an unprecedented, never-before-used procedure that would block amendments. This is the so-called clay pigeon procedure others have described. He will file a first degree amendment, and then file a second degree to it to fill the tree, so no other second-degree or unapproved amendments will be allowed votes. He will divide his own second degree into 20 or so amendments and then work every procedural trick in the book to ensure that the underlying bill and its 20 hand picked amendments move the

legislation through this Senate as fast as possible. The mandarins who are managing this piece of legislation want it out of here. They don't want any more calls from their constituents. They don't want any more talk show people explaining some of the things that are in it. They want it off their plate. Good policy? Well, they say, that is for another day. We just want the bill out of here.

Well, the opposition to this bill is gaining momentum. Thoughtful Senators who wanted to vote for something are analyzing the fine print of the bill and realizing that the "vision" bill supporters describe is not supported by the text. Senators are announcing that they will be voting no. Senators who participated in the debates and wanted to vote for something and hoped to be able to vote for this bill after examining it in more detail are indicating that they are going to vote against it.

It is quite clear that the same special interest forces who produced the 1986 bill are the ones who worked behind the scenes to produce this one. It was produced in secret meetings of politicians without any public hearings. It did not go through a single committee markup. But you can be sure the activist open border immigration forces, and the business interests, were having their voices heard in these meetings. Does anybody doubt that? What about the American public? Were they in the room? Were their opinions sought after? What about experts in law enforcement, were their opinions sought after? I suggest not.

The mandarins, in their faux wisdom, treated this as a political problem that could be solved by compromise. We have to pass something, they said. That was the mantra. So in the end it seems that passing something means passing anything, regardless of whether, in the end, it will work to end illegality or establish good policies that will serve our long-term national interest.

This Senator will never support a bill that will fail as spectacularly as the 1986 legislation failed. I have to tell my colleagues, my best judgment, and we looked at this hard, is that this one will fail. Even the Congressional Budget Office, our investigative analysis arm, in its June 4—just a few weeks ago—cost estimate, says that illegality after the passage of this bill would be reduced a mere 13 percent. Mr. President, 8.7 million illegal aliens would be expected over the 20-year period instead of 10 million under current law. That is what their estimate is.

So our masters—and I say that affectionately; I call them masters of the universe. These are good friends and good Senators. They have tried to do something. They got it in their head that if they just all met and they just put out the realpolitik and they worked out the political deals and split the babies and all this, they could do a bill that served America's interests. I

watched with interest. I thought some of the things they said they wanted to accomplish were good improvements over last year's bill. But I have to tell you, I don't believe it worked. I don't believe they got there.

They don't want to pay attention to those of us who question what they have done, you see. They believe they are wonderful and bright and thoughtful and love America and are compassionate. The rest of us, they say you see, we are nativists. They say we just oppose immigration—despite the fact that we don't oppose immigration. They say we don't like immigrants. They say we don't have courage. How many times have I heard that? You have to have courage to vote for this turkey, I guess. That is supposed to be something that would be good. But sometimes I think hanging in here and opposing the machinery of this process takes a little gumption on the part of those of us who oppose it.

They say we do not believe in immigration or we lack compassion. I want to reject those charges flatout. They are false. I believe in immigration. I believe in a guest worker program. But I want a guest worker program that will work, will not be an avenue of expanded illegality, as the CBO said this one will.

In fact, because of the guest worker program, the Congressional Budget Office has said visa overstays, those people who come in legally but do not go home when they are supposed to, will increase under this bill, not decrease.

I thought we were supposed to be fixing illegality not enhancing illegality. So I wish to say to my colleagues, first, it is indisputable that the passage of this bill will not create a lawful system of immigration. This bill does not live up to their promises. Our good friends the masters came out of their secret meeting, and they announced they had fixed immigration; they announced that they had a comprehensive plan that is going to fix immigration, and that we are finally going to end this illegality.

But their own Congressional Budget Office that responds to them, that responds to the Democratic leaders, Senator REID or Speaker PELOSI, it is pretty much a nonpartisan group, but they are under the control of the Congress. This group under the control of the Congress says it will not work, says visa overstays will increase and the net impact on illegal immigration only be to reduce illegal immigration by 13 percent.

Now, I consider that one event so significant, so earth shaking, that I cannot see how the Majority Leader could still take up this legislation and jam it down the throat of this Senate through an unprecedented procedure to pass it, especially when the American people do not like it either.

So it will not create a lawful system. We can be sure of that. We felt that when we analyzed it. My chief counsel, Cindy Hayden, and others looked at it,

we found loophole after loophole. I made a speech of about 20 loopholes that were in the legislation. There were many more than the specific 20 I talked about. But we knew it was not going to be an effective law enforcement bill. It was not going to secure the border. So what does the CBO say? They agreed with our analysis.

Secondly, what else is fundamentally in here? The legislation fails to move to a merit-based system and, in fact, triples low-skilled and chain migration over the next 8 years. The promise was made that the bill would move us to a system more like Canada has, which makes so much sense; a system that Canada is very proud of. They believe it serves the Canadian interest.

They still have the same number of refugees and humanitarian immigrants that they always did, but they have—with regard to the rest of their immigration policy—reached a point where 60 percent of the people who enter into Canada have to come through a point system. If you are admitted and come in, you can bring your wife and children, but to do that, you basically have to first demonstrate that you can contribute to Canada.

One of the things they gave you points for, in an objective evaluation, is education. We know that if an immigrant has had any college courses, they do much better economically. They ask if you speak English or French. You get extra points if you do that.

You even get extra points if you are younger. You get extra points if you have skills Canada needs. They even give you points if you move to areas of Canada that are underpopulated and have a particular job shortage.

That is the way the deal works. They promised we would have that in this legislation. That was part of the announcement. But when you read the fine print, you see that was eroded away in the political compromise. The bill's merit based system will not have any substantial effect until 8 years after this date. So I don't know what will happen in 8 years. You never know. But we would like to see this kind of thing in the bill.

I congratulate the people who produced it, that they began to discuss it because last year it was not even discussed. I talked about it on the floor repeatedly. I asked how we could debate comprehensive immigration reform and nobody even ask what they are doing in Canada. So they put the Canadian system in here. But it is so weak that it is a great disappointment.

Well, I indicated that illegal immigration would only drop 13 percent. What about the proposal for legal immigration on the legislation? Well, it is going to go up 100 percent. Legal immigration will double in the next 20 years.

Now we have looked at the numbers. I think this is indisputable. We will have twice as many people getting legal permanent residence over the

next 20 years as we would under current law. I am not sure when the average citizen listened to our colleagues and they announced on that big day, the grand bargain, that we were talking about a proposal that would hardly limit legal immigration at all and would double legal immigration, I don't think that is what they had in mind when comprehensive reform was discussed.

What about cost? The Congressional Budget Office dealt with that issue. They have to score legislation. Well, what does the cost factor say? Under the CBO analysis, the cost to the taxpayers of the United States—now I wanted to make this clear, this is not for border enforcement, Border Patrol acts, barriers or anything such as that—this is costs that will be incurred by the recipients of amnesty, who will be given amnesty under this bill, because all of a sudden they will be entitled to welfare, Medicare, and other types of tax credits and other types of benefits.

They concluded this legislation will add to the taxpayers of America an additional \$25 billion in cost over the next 10 years. They have admitted, without any hesitation, those costs will greatly increase in the outyears, because the way this thing is staggered, people's benefits do not come immediately. But as the years go by, they are entitled to more welfare and social benefits.

So they have admitted we are going to have an increase significantly in the future because, in fact, the persons who are here illegally, for the most part, have little education. Approximately half, maybe even more, do not have a high school diploma at all, and their skill levels are low.

We have statics and scientific data on that. I am not disparaging anyone. I respect anyone who works hard and wants to come to America and work hard. I respect that. But I can say with certainty these are basically low-wage workers that are going to be legalized.

My fifth point is, that the way the bill is written, it will reduce the wages of working Americans. We bring in more cotton in this country, the price of cotton goes down. You bring in more iron ore, the price of iron ore goes down. If you reduce the amount of oil coming into the country, the price of oil goes up. You bring in more laborers, the price of labor goes down.

I would submit that if one of the charges I have made out of these five is true, this legislation should be pulled from the floor; it should not become law. But I am going to take a few moments now to demonstrate, I believe with hard evidence, all of these charges are true. The legislation, in effect, will not end the unlawfulness of our current system and will shift the balance against American workers and create another amnesty that will encourage even more illegals in the future.

The effect will be to continue the erosion of confidence by the American

people in Congress, and in the Government overall, which is at an all time low, virtually. I am not sure since I have been in the Senate, we have such a large number of people who believe this country is on the wrong track.

I have to believe, and experts have told me, that their distrust and dissatisfaction over immigration is a big part of the way, the cause of this cynicism. Let me take some points here, one by one.

Will this grand bargain we are presented with create an honest, legal, fair system for the future? The answer is no. That was our conclusion after we studied the bill. But let's look at what others might say. I mentioned the CBO study. They said specifically that the bill would limit the amount of illegal flow across our border by 25 percent but would increase illegal visa overstays significantly.

The net result was only a 13-percent reduction in illegals, from 10 million illegals projected to come into our country under current law over the next 10 years, to 8.7 illegals coming in over the next 10 years. That is a 13-percent reduction only. That is not good enough. We should be at the 80, 90 percent of increased lawfulness. Aren't we trying to create a system of law?

I was a Federal prosecutor for 15 years, 12 years as U.S. attorney. This is not acceptable. People come to America because they believe we are a Nation of laws; their rights will be protected. I happened to be at a birthday party reception for a friend of mine. A lady from England there came up to me and she said: I hope you stand up for this. She had a distinct British accent. She said: I thought you ought to play right by the law and people shouldn't come in illegally. I tried to do the right thing.

Well, what about others? What do they say? What experts are out there who know something about immigration? What do they think of this bill? What about Border Patrol officers, people who carry out their daily responsibilities to enforce the border, who have lived with this illegality for so long? They are real experts. I assure you they were not in the meeting with the masters of the universe when they crafted this legislation.

They know what is happening. A group of them, a prominent group of retired Border Patrol officers held a press conference at the National Press Club on June 4. Their purpose was to express their opinion about the legislation. I have to tell you, their opinions are not a pretty sight. I am going to quote from them and show you what they said; not what this Senator said but what they said.

Hugh Brien, the former Chief of the Border Patrol from 1986 to 1989, after the 1986 failed bill became law—He was appointed by former President George H.W. Bush. He is himself an immigrant to America. He came here as a young man. This is what he had to say about the bill. It is, he said:

A complete betrayal of the Nation.

Is that harsh? It was his job. That is what he said about it. He went on to say:

It is a slap in the face.

To the millions who came here legally, such as the lady I met today, such as a lady from India who was written up in the *Montgomery Advertiser*, I believe, yesterday, who talked about having to hire a lawyer and filing all of the paperwork and taking several years, but she was proud to be here legally, and she did not appreciate people coming illegally, or such as the lady I met at a funeral not long ago who had come into this country after a number of years who said: I hope you make the law enforced for everybody equally; I did it right.

Now don't tell me that when you ignore law there are no consequences. In a real sense, as my experience as a prosecutor says, when you don't enforce the law, you make chumps of the guys who do it right, and when you provide benefits to those who cheat, it is not a good thing for a Nation who respects its legal system.

What else did Mr. Hugh Brien, former head of the Border Patrol say? He said:

It is a sell-out.

He went on to note that in 1986, when this same debate was occurring and he was about to take office as the head of the immigration system, and these are the words he used—it is not funny, he said: Our masters, our mandarins, promised us their bill would work. These are tough words, but these are people who are entitled to express them. They are not my words.

Powerful politicians who are unaware of the reality of what it takes to actually create a legal enforcement system without experience in these matters have arrogantly cut a political deal and they have cut one, unfortunately, that doesn't work. I guess that is not too far from the definition of a mandarin.

Mr. Hugh Brien added these final important words:

Based on my experience, it's a disaster.

He has the experience to say so. He was charged with enforcing the 1986 immigration law which proved to be a disaster and he did, as chief of the Border Patrol from 1986 to 1989.

What about the national chairman of the Association of Former Border Patrol Agents, Kent Lundgren. This is what he had to say. He had some harsh words, too. With regard to the promise that the system will do 24-hour background checks, he said, after studying the bill, there are "no meaningful criminal or terrorist checks" in the bill. That is a bad thing. We have been told this bill will make us safer. He says there are no meaningful criminal or terrorist checks in the bill. He knows how the system works and how this 24-hour check will occur. He is scoring the screening procedure set forth in the bill saying "the screening will not happen, period." He added:

"There's no way records can be done in 24 hours."

As to the promise that this bill will work, he concluded—these are not my words; he is presently the associational head of the former Border Patrol Officers, the national president: "Congress is lying about it."

On a separate issue, the provision that allows gang members, even members of the very violent international MS-13 gang, to become lawful permanent residents if they check a box to renounce their gang membership, he said, "What planet are they from," talking about us. Why would our colleagues write a bill that allowed for this?

These are real views, harsh views of a man who led the border patrol association and had a press conference a few weeks ago to express deep concern.

Another one at the press conference was Jim Dorsey, a former Border Patrol agent, who served 30 years. He served as inspector general with the Department of Justice. He was promoted up from the Border Patrol, which is a part of the Department of Justice, to the Department of Justice, and was given responsibility to investigate serious allegations of corruption. That is quite a responsible position to be chosen for that as investigator. He had these things to say: "The 24-hour check is a recipe for disaster."

As to the overall legislation, Mr. Dorsey said at the National Press Club: "I call it the al-Qaida dream bill."

Roger Brandemuehl, chief of the Border Patrol from 1980 to 1986 under President Reagan—this is another chief of the Border Patrol for 6 years under President Reagan—he said: "We have fallen into a quagmire." He added: "The so-called comprehensive reform is neither comprehensive nor reform. It's flawed."

What about the current Border Patrol Association, the Border Patrol union? It is not just the retired patrol officers who oppose the bill; the current ones do as well. In May, the National Border Patrol Council, affiliated with the AFL-CIO, sent out a press release titled "Senate Immigration Reform Compromise is a Raw Deal for America." These are the people who are out doing it every day. The press release stated:

Every person who has ever risked their life securing our borders is extremely disheartened to see some of our elected representatives once again waving the white flag on issues of illegal immigration and border security. Rewarding criminal behavior has never induced anyone to abide by the law, and there's no reason to believe that the outcome will be any different in this case.

I spent the better part of my professional career as a prosecutor. If you make it clear that you are not going to enforce laws, people assume the laws won't be enforced. In fact, when law enforcement officers don't enforce the law, they de facto wipe out legislative actions and eviscerate policy. You have to enforce the laws.

He goes on to say:

Passage of time has proven the 1986 amnesty to be a mistake of colossal proportions. Instead of wiping the slate clean, it spurred a dramatic increase in illegal immigration.

He goes on:

Rather than the meaningless triggers of the additional personnel and barriers outlined in the compromise, Americans must insist that border security be measured in absolute terms.

That is a strong, crystal-clear condemnation of this act by the officers whose lives are on the line this very moment on our border trying to enforce our laws. Are we going to listen to them? Or are we going to listen to our mandarins, our masters meeting in secret, who plopped a bill down here, 700 pages long, that they say will make the system work? I wish it would. I even had hopes this spring, and I said so publicly. I was hoping they might make real progress. But I am afraid we haven't. Talk to the experts. Talk to CBO.

This is another very significant, but discrete issue that I believe we should think about, and it is a weakness I had not fully comprehended until I read a piece in the Washington Times by Michael Cutler on June 21. He also participated in a press conference, a different one than the Border Patrol one, at the National Press Club on June 19. The event focused on the grave threat to national security the immigration bill represents. Mr. Cutler authored an op-ed in the Washington Times last Friday entitled "Immigration Bill Is a No Go" that focused on security issues raised by the bill. People are going to be invited to come in who are here illegally, give their name and so forth, and within 24 hours they will be receiving a legal status in the country, a probationary visa. It will soon be converted into this Z visa that people will have, but immediately within 24 hours, they will be provided that, unless something shows up of a serious nature in their background. But as these experts have told us, it is not possible to do a very effective check in 24 hours, as you can imagine. Even though you can do a computer run, it still has great weaknesses in it. So he focuses on this whole issue and says this:

If a person lies about his or her identity and has never been fingerprinted anywhere in our country, what will enable the bureaucrats at the USCIS—

that is the agency that will be handing out the immigration benefits—

to know the person's true identity? If the adjudicators simply run a fictitious identity through a computerized database, they will simply find the name has no connection to any criminal or terrorist watch lists.

I am quoting him now.

What is the true value? Remember, we are talking about a false name.

Let me continue quoting:

There is absolutely no way this program would have even a shred of integrity and the identity documents that would be given these millions of illegal aliens would enable every one of them to receive a driver's li-

cense, Social Security card, and other such official identity documents in a false name.

Undoubtedly, terrorists would be among those applying to participate in this ill-conceived program. They would then be able to open bank accounts and obtain credit cards in that same false name. Finally, these cards would enable these aliens to board airliners and trains even if their true names appear on all of the various terrorist watch lists and "no fly" lists. That is why I have come to refer to this legislation as the "Terrorist Assistance and Facilitation Act of 2007."

There has been a lot of talk in this Senate about Mexico's consulates throughout the United States issuing matricula cards and that these matricula cards are given based on documents that nobody knows for sure how good they are. Therefore, the cards they have are not really guaranteed to be a valid identity, but they are being utilized around the country as legitimate identification. What Mr. Cutler says is the identification documents we will be giving out under this bill will not be any better than matricula cards. It is going to prove nothing more than what the person said to get the card. He may come here, be one of those people who planned to hijack our airplanes and crash them on 9/11. Several of them were apprehended by state and local police. But, under this act, unless we had their fingerprints on record—and I am sure none of those fingerprints were on record—they would be given an official ID from the United States government, giving them complete freedom to go anywhere in the country.

That is why he calls it "the Terrorist Assistance and Facilitation Act of 2007." That is a very serious professional criticism of a core part of this legislation.

How about this? Mr. Kris Kobach, a former Department of Justice attorney under Attorney General Ashcroft and a specialist on terrorism and immigration, agrees with Mr. Cutler. He posted an article on the Heritage Foundation Web site titled "The Senate Immigration Bill, a National Security Nightmare." The article states:

The bill will make it easier for alien terrorists to operate in the United States by allowing them to create fraudulent identities with ease.

Wow, is that a charge? Should we be hell bent to go forward tomorrow and move on to a bill that the American people reject and that could be called a terrorist dream bill that would actually allow and make it easier for terrorists to obtain fraudulent identity in this country?

Mr. Kobach, a fine lawyer, now professor, goes on to write:

Supporters of the Senate's comprehensive immigration reform bill have revived it under the guise of national security. However, the new public relations campaign is a farce. The bill offers alien terrorists a new pathway to obtain legal status which will make it easier for them to carry out deadly attacks against American citizens.

priority in this bill is extending amnesty as quickly and easily as possible to as many illegal aliens as possible. The cost of doing so is to jeopardize national security.

That is a statement from a former Assistant Attorney General of the United States of America charged with these kinds of issues, now a professor.

Well, we know this: We know the sheriffs along the border have absolutely been in an uproar over our failure to back them up in their efforts to create a lawful border. Is anybody listening to them? The truth is, the Senate bill is not going to stop illegal immigration or even substantially reduce it. According to the Congressional Budget Office, the new Senate bill will only reduce net annual illegal immigration by 13 percent. There will be additional visa overstays: 550,000 by 2017 and up to 1 million 10 years later, according to the CBO.

Now, I mentioned that it promised, at the beginning, a move to a more merit-based point system for evaluating those applying for citizenship instead of the much-criticized chain migration policy we now have. The Canadians have adopted such a policy, after a very careful study over a period of years, and they are very happy with it. I talked to the head of the Canadian immigration system—Monte Goldberg—about it. He said they are very happy with it. They would like to take it even further toward a merit-based system than the current law by which they now admit 60 percent of the immigrants in their country based on a competitive skills-based system.

But, unfortunately, the bill fails to meet this goal. For the next 8 years—almost a decade—instead of moving to a merit-based system and ending the chain-based system, chain migration will increase. After that, merit admissions will reach just more than one-third of all immigrants entering our country. So we will continue this system that, in effect, favors lack of education and low-skill workers, and denies entry to those who have higher skills, education, speak English, and have college degrees.

How does that chain migration work? You see, if you are here, you got amnesty last time, or if you came here legally, you are then allowed to bring your wife and children. I think we should always have that. So I am not opposing wives and children. But under current law, you are allowed to also immigrate your parents, and your brothers and your sisters. You can bring a brother, and the brother can bring his wife and their children; and your sister, likewise. These would come based on their family connection only and not based on any skills they might offer to our country. So I am worried about that. I do not think we have accomplished a large enough move in the direction the drafters indicated they would. I thank them for at least dealing with the issue this year, which was not dealt with last year.

This is very important—very, very important. I will just say, you see, it is a zero-sum game. We cannot admit everybody who would like to be an American citizen. That is a fundamental

principle. That is a fundamental principle. In the year 2000, 11 million people applied for the 50,000 lottery slots. There are 50,000 slots in America where they draw your name out of a hat. You send your name in, they put it in there, and they draw the names. Mr. President, 11 million applied. That gives an indication of how many people would like to come to America.

So if you have an overall cap on how many people can come legally and you are allowing parents and brothers and sisters—without any reference to whether they have any skills or not—then you are denying slots to people. Let's say two people apply from Honduras. One was valedictorian of his high school class. He wants to come to America and learn English. He has 2 years of college and technical training. That person applies. Another one is a brother of somebody who is in the United States. That brother maybe does not have a high school diploma, maybe is basically illiterate even in the language of which he was raised. Who is going to get in? The brother gets in and denies, therefore, a slot, an entry right to somebody who has a better chance, statistically speaking, of flourishing in the great American experience.

So I do not think it is a harsh thing for America to say: If you leave your community and you come to America and we agree to allow you to be an American citizen, what obligation do we, then, have to you to say you get to bring your parents and your brothers and sisters, whether or not they will provide and be able to be successful in America?

I just do not get it. I think the country has a right to say: Let's have people compete for those slots, and the best persons—the ones who are likely to prosper the most and be most successful—ought to be the ones who get the benefits.

My fine staff people, Cindy Hayden and Jenny Lee, have examined the details of this legislation. They have consulted others and concluded that over the next 20 years the law will provide twice as many persons with legal permanent status in our country as we would under current law. I do not believe the American people understand this. I do not believe they think that is what reform is about.

Of course, as I noted, illegal immigration is not going to go down but 13 percent. So I would pose this question to my colleagues: How can you call this a "grand bargain"? It is more like a Faustian one, to me. Just like in 1986, there is a grant of amnesty to virtually everyone here—no illegal alien left behind, and a lack of enforcement.

In fact, this amnesty will be another incentive for illegals to believe they will be given amnesty in the future once again. Indeed, no one has promised to not give amnesty again. I thought a most interesting speech—I happened to catch it—was by CHUCK GRASSLEY, the Senator from Iowa, who

was here in 1986. He said he is not supporting this bill. He said: I was here in 1986, and everybody said this is a one-time amnesty. It will not happen again. We are going to fix this system. Trust us.

Of course, we did not fix the system, and they gave 3 million people amnesty then. Now we are looking at 12 million. But the key thing in Senator GRASSLEY's speech that I thought went to the core of what we are about and why we ought to have a pause here is, he said: Nobody has come on this floor and said we won't give amnesty again in the future. He said: You will not hear them say it. Why? Because we moved into a pattern of ignoring the law and not enforcing it.

What about costs? You have heard the talk: If given amnesty, our illegal population will pay taxes. They are hard working. This will help America. It will help increase our population. The Medicare and Social Security systems are in long-term jeopardy. These new workers will help us save Medicare and Social Security.

You have heard those arguments. I have to tell you, I wish that were true. I even myself thought it might be several years ago. But the fact is, nothing could be further from the truth. Out of 12 million people who would be given amnesty—I call it amnesty. Different people have different words. It is not a loaded question to me. I have said repeatedly that persons who are here unlawfully now, who came here wrongly, who have been here a number of years, who have worked hard, who have obeyed the law, have children, perhaps, deep roots in our society—I do not think we can ask all those people to leave. I am not asking for that to be a part of my proposal to fix immigration. But when you give people an absolute status, I guess I think amnesty is a fair word for it.

My personal view is we should never, ever, after 1986, give people who come to our country illegally all the benefits we give to people who come to our country legally. That is my view of it. We will make a mistake if we do it again this time. But some sort of lawful process where people can stay and be legal and not have these burdens—for those who have earned it and done well—I am willing to accept it. But of the 12 million who are here, half do not have a high school diploma. Most have lower skills. They overwhelmingly are lower income workers. They will immediately be treated like green card holders—legal permanent residents—and be entitled to all the benefits that low-income American workers get, which are paid for by the U.S. taxpayers. As low-income workers, they will pay little, if any, income taxes—we know that—while gaining the child tax credit for their children, food stamps, subsidized housing, education, and health care at our emergency rooms.

So in one part of the analyses, the Congressional Budget Office adds up all

these numbers, and they conclude that the cost over the next 10 years to the taxpayers of this country—not including enforcement, fences, border patrol, all that stuff; just the cost from legalizing those who are here illegally—will be over \$30 billion.

Now, with my amendment I offered to delay the earned-income tax credit payments to illegal immigrants who are here, and to delay it until at least they became a legal permanent resident, we would reduce that to maybe \$25 billion. That passed by a narrow margin, which I was pleased to have passed, but all the rest of the benefits are there, so we are looking at perhaps a \$25 billion net drain on the U.S. Treasury, according to the Congressional Budget Office. They admit it will be much greater in the future.

In the outyears, the costs will increase because the way the bill is written, certain benefits are not made available initially to those who are given legal status, but their benefits will increase in the years to come. How much will those increases be? When asked if it would be a substantial increase in the future, the Congressional Budget Office—which did not score beyond the 10 years—said certainly, absolutely, it would be a substantial increase.

One institution has looked at this figure: the Heritage Foundation. The Heritage Foundation's senior fellow, Robert Rector, has spent months on this very issue. He used the best available statistics in calculating the costs to the American Government—State, Federal, and local treasuries—of amnesty. It is a picture that I think, as responsible legislators, as representatives of our own constituents, we have to think about, we have to acknowledge. The number he came up with is so large that many people have just tried to dismiss it without any thought. But Robert Rector is one of the foremost experts in this country on welfare and social programs. He was the architect of the welfare reform President Clinton vetoed two or three times and finally signed and took credit for for the rest of his tenure. How wonderful it was. It did work exceedingly well. Mr. Rector's analysis cannot be lightly dismissed. He concludes that the cost to Federal, State, and local governments from just retirement of the 12 million to their death would be \$2.6 trillion.

It is clear any short-term benefit—whatever the exact number is out there, whatever the exact number is—any short-term benefit provided to American businesses who would enjoy these low-skilled workers would be more than offset by the lifetime costs of tax credits, welfare, food stamps, Social Security, Medicaid, and Medicare that will be picked up by the American public—the taxpayers.

Mr. Rector said: "This is a fiscal disaster."

Finally, I believe this legislation, because it will not reduce illegal immi-

gration and will double—only a 13-percent reduction—and will double legal immigration, will put even more stress than we currently have on working middle-class Americans. It will have a tendency to pull down wages of American workers. That is their asset: their labor. But workers are more than a mere asset; they are human beings. They are created with inalienable rights, according to our Declaration, and they are citizens who are the ultimate shareholders of America. Citizenship carries responsibilities for them and for us. We pay taxes. We serve in the military to the point of giving our lives for our country.

I have talked to a lot of mamas and fathers in the last several years who have had their sons—middle-class Americans who are serving our country in Iraq and Afghanistan who have lost their lives in service to our country.

We have an obligation to obey the law. We accept court rulings even if they are silly and absurd. That is what we do. We grumble, but we follow what the court says. We obey laws passed by this Congress, whether we like them or not, whether they make sense or not. That is the responsibility of citizenship in this Nation we have inherited.

Those of us now in Congress I submit have an obligation to those dutiful citizens who serve every day doing the right thing. We owe them something. One thing we owe them is consistent and fair application and enforcement of the law. Another is to make sure those who do the right thing are rewarded or allowed to prosper and those who do not are disadvantaged. This is the definition of a morally ordered society. We are a community of people, voluntarily bound together in many ways. It is the uniqueness of America. It is our strength. But do not ever doubt that that moral order, that proper balance, can be eroded if we are irresponsible in this body. It can even be lost.

Labor is more than barrels of oil, tons of iron ore, bales of cotton, or kilowatts of electricity. Our workers are our citizens, created beings of infinite worth. They have every right to expect, to demand, that their elected representatives protect their interests, their country's legitimate national interests, not just what might be seen as an immediate benefit to that abstraction we might refer to as "the economy."

So I believe in immigration. I support immigration. I do not want to end it. I support an effective temporary worker program. But let's tell the truth about immigration and wages in this country. The elites are doing very well in this boom period, corporations are making record profits, but what about our citizens of this Republic who are less skilled? What have their wages done?

We have had a series of witnesses, including Dr. Chiswick from the University of Illinois. We had Professor Borjas of the Kennedy School at Harvard. We had Alan Tonnel at a Senate

hearing. We had a hearing and all of them testified and all of them agreed that large numbers of immigrants are, in fact, reducing wages of American citizens.

I left this Senate Chamber Friday after talking about this issue, and I mentioned wages. I went out, and right on the corner there was a gentleman with a homemade cardboard sign. He had white hair and gray in his beard.

I said: Well, what brings you here?

He said: Well, I wanted to come up and have my say about this immigration bill. He told me he was a master carpenter and that he was from Melbourne, FL, and that in the 1990s he made \$75,000 a year. He said he can hardly stay in business today because of the large flow of immigrant workers that has pulled down his ability to have the kind of income he would like.

Now, some may think that is too much money for a carpenter. I don't, not if he works hard and not if he is good. Don't think there are not millions of Americans who have given their lives to developing a skill and a craft and that, in the blink of an eye, can be made less valuable by an unwise, ineffective, inappropriate immigration policy.

So there is a lot we need to think about as we debate this bill. I am absolutely convinced it will not do what it promises, and what it will do may be adverse to our country. I am very worried about it. There is no reason whatsoever in the face of overwhelming public opposition that we should be bringing it up, and there is no reason whatsoever that the majority leader should be utilizing this clay pigeon procedure which, apparently, he will execute tomorrow, that will allow us to vote only on the amendments he chooses and to craft this procedure for handling this bill to minimize to the *n*th degree the amount of time we have available to debate it. I think that is a mistake. I object to that and urge my colleagues to vote tomorrow not to proceed to the legislation.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Illinois.

MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent there now be a period for the transaction of morning business with Senators permitted to speak therein.

THE PRESIDING OFFICER. Without objection, it is so ordered.

IMMIGRATION

Mr. DURBIN. Madam President, before making my closing procedural remarks and turning the floor over to the Senator from Indiana, I would like to use morning business for a brief moment to respond to the Senator from Alabama.

Our views on the immigration issue are much different. I happen to believe